

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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JOHN HALEBIAN, individually and on behalf of
all other similarly situated trust beneficiaries and
derivatively on behalf of CITIFUNDS TRUST III,
Plaintiff,

-against-

ELLIOT J. BERV, DONALD M. CARLTON, A.
BENTON COCANOUGH, MARK T. FINN,
STEPHEN RANDOLPH GROSS, DIANA R.
HARRINGTON, SUSAN B. KERLEY, ALAN G.
MERTEN, and R. RICHARDSON PETTIT,
Defendants,

-and-

CITIFUNDS TRUST III,
Nominal Defendant.
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06 CIVIL 4099 (NRB)

JUDGMENT

Whereas the Second Circuit having affirmed the Court's judgment in this action dismissing the complaint's second and third claims but vacating the judgment dismissing the complaint's first claim, a derivative claim, and remanding the case to this Court with specific instructions to convert the defendants' original motion to dismiss this derivative claim into one for summary judgment under Fed. R. Civ. P. 56; the Second Circuit having directed this Court to make an express finding as to the independence of defendants under the provision of state law governing the dismissal of derivative proceedings; following remand, plaintiff's having moved to amend his complaint and for discovery, and the matter having come before the Honorable Naomi Reice Buchwald, United States District Judge, and the Court, on July 20, 2012, having rendered its Memorandum and Order denying plaintiff's motion to amend and motion for discovery, and finding that plaintiff has failed to raise a genuine dispute as to a material fact bearing on defendants' independence or the good faith

or reasonableness of their inquiry in response to the demand letter and the complaint, and that accordingly defendants are entitled to summary judgment dismissing plaintiff's remaining derivative claim pursuant to § 7.44, it is,


ORDERED, ADJUDGED AND DECREED: That for the reasons stated in the Court's Memorandum and Order dated July 20, 2012, plaintiff's motion to amend and motion for discovery are denied, and the Court finds that plaintiff has failed to raise a genuine dispute as to a material fact bearing on defendants' independence or the good faith or reasonableness of their inquiry in response to the demand letter and the complaint, and that accordingly defendants are entitled to summary judgment dismissing plaintiff's remaining derivative claim pursuant to § 7.44.

Dated: New York, New York
July 26, 2012

RUBY J. KRAJICK

Clerk of Court

BY:



Deputy Clerk

THIS DOCUMENT WAS ENTERED
ON THE DOCKET ON _____